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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.    | CONFIRMATION NO. |
|-----------------|-------------|------------------------|------------------------|------------------|
| 09/842,203      | 04/26/2001  | Maurits van der Schaar | P 280250 P-0181.010-US | 5405             |

909            7590            12/19/2002  
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| EXAMINER |
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ESPLIN, DAVID B

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2851     |              |

DATE MAILED: 12/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                       |
|------------------------------|------------------------|-----------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b>   |
|                              | 09/842,203             | VAN DER SCHAAR ET AL. |
|                              | <b>Examiner</b>        | <b>Art Unit</b>       |
|                              | D. Ben Esplin          | 2851                  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-13 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2 and 10-13 is/are rejected.
- 7) Claim(s) 3-9 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,862,008 to Oshida et al.

FIG. 4A shows a lithographic projection apparatus including a radiation system (exposure light source 4), a beam patterning structure, or mask (reticle 1), supported by a support structure, or mask stage (reticle stage)(col. 14 lines 36-40), a substrate (wafer 2) arranged on a substrate table (wafer stage)(col. 14 lines 36-42), a projection system (reduction lens 3), and an alignment system including an excitation source for producing electromagnetic radiation (reference light 501') to a surface of the substrate to induce a wave in a region of a buried substrate alignment mark (see FIG. 14A and col. 11 lines 34+), and a measurement system to direct a measurement beam (reflected laser light 514). As can be seen in the drawings, the radiation from the

excitation source is shaped so as to allow the radiation to be incident on the substrate at a plurality of angles and the measurement system detects the radiation coming off of the substrate in order to generate thickness data relating to the thickness of a layer of photoresist covering the alignment mark (col. 9 lines 35+).

***Allowable Subject Matter***

Claims 3-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

A lithographic projection apparatus including an excitation source arranged to induce an acoustic wave in a covering layer of an alignment mark, or an excitation source arranged to induce a thermal wave in a covering layer of an alignment mark, along with the rest of the structure and function found in these claims, is not taught in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 2851

U.S. Patent No. 5,004,925 to Takahashi et al. discloses a method for detecting a buried alignment mark using an electron beam.

U.S. Patent Application Publication US 2001/0007734 to Yoshida et al. discloses a position detecting unit capable of detecting a partially buried alignment mark.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Ben Esplin whose telephone number is (703) 305-4022. The examiner can normally be reached on Mon.-Fri. (8am-4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russell E. Adams can be reached on (703) 308-2847. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

PBE  
DBE

December 12, 2002

  
RUSSELL E. ADAMS  
SUPERVISOR  
EXAMINER  
12/12/2002